

of a party which corresponds to a count is identical to any claim of an opponent which corresponds to that count. See § 1.637(a). When claims of different parties are presented in “means plus function” format, it may be possible for the claims of the different parties not to define the same patentable invention even though the claims contain the same literal wording.

(c) A motion to redefine the interfering subject matter by (1) adding or substituting a count, (2) amending an application claim corresponding to a count or adding a claim in the moving party’s application to be designated to correspond to a count, (3) designating an application or patent claim to correspond to a count, (4) designating an application or patent claim as not corresponding to a count, or (5) requiring an opponent who is an applicant to add a claim and to designate the claim to correspond to a count. See § 1.637 (a) and (c).

(d) A motion to substitute a different application owned by a party for an application involved in the interference. See § 1.637 (a) and (d).

(e) A motion to declare an additional interference (1) between an additional application not involved in the interference and owned by a party and an opponent’s application or patent involved in the interference or (2) when an interference involves three or more parties, between less than all applications and any patent involved in the interference. See § 1.637 (a) and (e).

(f) A motion to be accorded the benefit of the filing date of an earlier filed application. See § 1.637 (a) and (f).

(g) A motion to attack the benefit accorded an opponent in the notice declaring the interference of the filing date of an earlier filed application. See § 1.637 (a) and (g).

(h) When a patent is involved in an interference and the patentee has on file or files an application for reissue under § 1.171, a motion to add the application for reissue to the interference. See § 1.637 (a) and (h).

(i) When a motion is filed under paragraph (a), (b), or (g) of this section, an opponent, in addition to opposing the motion, may file a motion to redefine the interfering subject matter under paragraph (c) of this section, a motion

to substitute a different application under paragraph (d) of this section, or a motion to add a reissue application to the interference under paragraph (h) of this section.

(j) When a motion is filed under paragraph (c)(1) of this section an opponent, in addition to opposing the motion, may file a motion for benefit under paragraph (f) of this section as to the count to be added or substituted.

[49 FR 48455, Dec. 12, 1984; 50 FR 23124, May 31, 1985, as amended at 60 FR 14524, Mar. 17, 1995]

§ 1.634 Motion to correct inventorship.

A party may file a motion to (a) amend its application involved in an interference to correct inventorship as provided by § 1.48 or (b) correct inventorship of its patent involved in an interference as provided in § 1.324. See § 1.637(a).

§ 1.635 Miscellaneous motions.

A party seeking entry of an order relating to any matter other than a matter which may be raised under § 1.633 or § 1.634 may file a motion requesting entry of the order. See § 1.637 (a) and (b).

§ 1.636 Motions, time for filing.

(a) A preliminary motion under § 1.633 (a) through (h) shall be filed within a time period set by an administrative patent judge.

(b) A preliminary motion under § 1.633 (i) or (j) shall be filed within 20 days of the service of the preliminary motion under § 1.633 (a), (b), (c)(1), or (g) unless otherwise ordered by an administrative patent judge.

(c) A motion under § 1.634 shall be diligently filed after an error is discovered in the inventorship of an application or patent involved in an interference unless otherwise ordered by an administrative patent judge.

(d) A motion under § 1.635 shall be filed as specified in this subpart or when appropriate unless otherwise ordered by an administrative patent judge.

[60 FR 14524, Mar. 17, 1995]